

## Summary of Laws for Commercial Shellfishing with Legal References

2006-2207

**This document should be kept on board all vessels employed for commercial shellfishing as a reference to regulation, not to supersede knowledge of the pertinent laws.**

License and Permit Requirements [Section 50-5-300, Section 50-5-310, Section 50-5-320, Section 50-5-325, Section 50-5-360, and Section 50-5-965]

Residents:	Saltwater Commercial License	\$ 25.00
	State Shellfish Ground License	\$ 75.00
	Hand Held Equipment License	no charge
	Drag Dredge License	\$ 75.00
	Other Mechanical Equipment License	\$ 125.00
	Commercial Vessel Decal	no charge
	Culture or State Ground Harvest Permit/Decal	no charge
	State Ground Harvest Maps	no charge
Non-Residents:	Saltwater Commercial License	\$ 300.00
	State Shellfish Ground License	\$ 375.00
	Hand Held Equipment License	no charge
	Drag Dredge License	\$ 375.00
	Other Mechanical Equipment License	\$ 625.00
	Commercial Vessel Decal	no charge
	Culture or State Ground Harvest Permit/ Decal	no charge
	State Ground Harvest Maps	no charge

Legal definitions import to shellfishermen include:

Bottoms-are all of the lands within the State covered at mean high water from the freshwater/saltwater dividing line seaward to the seaward most limits of the territorial sea.

Bull rake-means a rake having a basket and a width greater than twelve inches.

Bushel-means one US bushel.

Commercial equipment-mean:

- (a) Any trawl, haul seine, gill net, channel net, bull rake, seed fork, grabs, escalator, or dredge; and
- (b) Any net, seine, trap, pot, tongs, rake, fork, trotline, or other device or appliance when used for taking or attempting to take fish for a commercial purpose.

Commercial purpose-means:

- (a) Being engaged in buying or selling fish;
- (b) Taking or attempting to take fish in order to derive income or other consideration;
- (c) Using commercial equipment; and
- (d) Otherwise being engaged in the fisheries industry with the intent to derive income.

Culch-means oyster shell or other substrate, which is purposely placed for propagation of oysters through the attachment of oyster larvae.

Dredge-means equipment used for harvesting bottom dwelling aquatic life, which is not a trawl and is powered by mechanical means, and is designed to contact the bottom when in operation.

Fish-means finfish, shellfish including mollusks, crustaceans, horseshoe crabs, whelks (conchs), turtles, and terrapin or products thereof.

Mariculture-means controlled cultivation in confinement of marine and estuarine organisms in salt waters.

Mollusk-or "molluscan", means any member of the phylum Mollusca.

Recreational fishermen-means persons taking or attempting to take saltwater fish for recreation only, and not for commercial purposes.

Seed fork- means a fork manufactured having seven or more straight or slightly curved tines or having any tine greater than eight inches in length. All tines must be at least one inch apart unless utilized for mariculture harvest.

Shellfish-means oysters, clams, mussels, scallops, and all nonmotile molluscan fish having shells.

Striker-means a person, other than a licensed saltwater commercial fisherman, who under immediate supervision assists a licensed commercial saltwater fisherman, but does not use separate commercial equipment on a vessel, which is engaged in commercial fishing. Section 50-5-15.

Section 50-5-35 (A) In opening or closing the commercial shellfish fishing season, except under its emergency closure authority, the department shall give at least twenty-four hours notice of any action and shall use all reasonable means to inform the public.

Section 50-5-115 The operator of any vessel engaged in commercial fishing is responsible for accurately determining the location of his vessel in order that he not violate any closed or restricted area.

Section 50-5-345 In order to obtain any commercial shellfish harvest permit, a person must be a licensed commercial saltwater fisherman and hold all other required licenses.

Section 50-5-965 (G) any permit revoked for a violation of a condition of the permit or of a related conservation law.

Section 50-5-325 (F) Other than vessels solely transiting the State in interstate commerce, any vessel to or from which commercial shellfish harvest equipment is used or transported must display a current identification decal provided by the department.

Section 50-3-350 (A) While exercising the privilege of license or permit, the licensee, operator, or permittee must display or keep on his person the license or permit, and the license or permit must be produced on demand of the department personnel or other law enforcement personnel.

Section 50-3-350 (C) The operator and the owner of a vessel used for commercial purposes must have aboard the required commercial equipment licenses and permits and display the vessel's identification decal provided by the department.

Section 50-5-385 Licenses issued for shellfish equipment on June 30<sup>th</sup> following their effective date. Permits expire under the terms of the individual permit.

Section 50-5-120 The operator and crew of any watercraft operating in the state waters are required to heave when signaled or hailed and allow boarding, and cooperate with the department personnel, law enforcement officers, or U.S. Coast Guard personnel.

Section 50-5-955 (C) The department designates certain shellfish growing areas for recreational harvest only. It is a violation of the law for a person to take shellfish from such area for a commercial purpose or to sell or attempt to sell shellfish taken from such area.

Section 50-5-960 (B) Only properly licensed and permitted commercial fisherman and persons who received properly tagged shellfish from a licensed and certified wholesale seafood dealer may possess more than the daily recreational limits provided in law while on the waters of this State or the adjoining lands.

Section 50-5-965 (A) A person who takes shellfish commercially or takes more than the recreational limits allow by law from the bottoms designated for commercial harvest must possess an individual harvesting permit.

Section 50-5-965 (B) The department may limit the number of areas on which an individual may harvest commercially under permit. Presently there is a limit of five state shellfish grounds allowed at any one time.

Section 50-5-965 (C) People holding a Shellfish Culture or Mariculture Permits may allow others to harvest shellfish from bottoms permitted to them. In addition to the required department permit, in the form of a hard card, harvesters must have a decal from the Shellfish Culture permittee or Shellfish Mariculture permittee for each area.

Section 50-5-965 (D) No person may take or attempt to take shellfish from state-owned bottoms in quantities greater than that allowed for personal use without having in possession a valid individual commercial harvesting permit granted to him by the department.

Section 50-5-965 (E) No person may take or attempt to take shellfish from state-owned bottoms under permit for shellfish culture or mariculture without a valid individual harvester permit granted to him by the department.

Section 50-5-970 It is unlawful to take or attempt to take shellfish by mechanically operated devices without a mechanical harvest permit.

Section 50-5-975 (B) Following voluntary surrender of a commercial shellfish harvest permit to the person during the remainder of the license year.

Section 50-5-980 It is not lawful without approval of the department to erect or maintain any sign on shellfish bottoms or waters, except Culture or Mariculture Permit holders may erect signs approved by the department to designate their areas under permit.

Section 50-5-985 (A) The department sets the shellfish season between September 16 and May 15. It is a violation of the law for a person to take or attempt to take and shellfish during the closed season.

Section 50-5-985 (B) It is unlawful to take or attempt to take shellfish from any grounds closed by the department or any other authorized government agency.

Section 50-5-985 (E) Shellfish imported during the closed season must bear written evidence, such as a bill of landing or other official document from the State of removal, which verifies that the shellfish were lawfully taken from the state.

Section 50-5-985 (F) It is unlawful to harvest shellfish between one-half hour after sunset as locally published and one-half hour before sunrise as locally published. In the case of bottoms under culture or mariculture permit harvesting at night is lawful with written permission of the department.

Section 50-5-990 (A) Except as an activity of mariculture it is unlawful to take or attempt to take, possess, sell, purchase, or import a hard clam less than one inch in thickness as measured from the exterior surface of one shell of the intact clam to the exterior surface of the opposite shell. A person taking a clam of other than legal size must immediately return it to the bottoms from whence it came.

Section 50-5-995 The department may permit persons and entities engaged in shellfish mariculture operations to take, possess, and sell maricultured shellfish at any time during the year.

Section 50-5-1000 (A) It is unlawful for a wholesale seafood dealer to purchase shellfish from anyone other than a properly licensed and permitted commercial saltwater fisherman or another licensed wholesale seafood dealer. The dealer must maintain a record of all purchases of shellfish handled including the name and address of the person whom purchased, the area where harvested, the type of shellfish purchased, the dates of harvest and purchase, and the commercial saltwater fisherman's license number. The record must be available for inspection by any law enforcement officer or department personnel for one year after the date of sale.

Section 50-5-1015 It is unlawful to remove shell from any deposit under state jurisdiction without a permit from the department.

Section 50-5-2500 (A)(4) Under the saltwater commercial violations point system convictions for taking, attempting to take, or possessing shellfish in an unlawful manner, in unlawful or closed areas including areas closed by the Department of Health and Environmental Control, during unlawful hours, or during the closed season for the activity, result in assessment of eight points.